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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/748,094      | 12/27/2000  | Benjamin P. Fowler   | 837,031             | 4355             |

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EXAMINER

GONZALEZ, JULIO C

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 08/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/748,094

**Applicant(s)**

FOWLER, BENJAMIN P.

**Examiner**

Julio C. Gonzalez

**Art Unit**

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurtz et al in view of White and Thomas.

Wurtz et al discloses a windpower generating apparatus having a vertical support 11, a plurality of arms, plurality of vanes 21, and a plurality of struts (see figure 1), a top and bottom bearings 14, 27. Moreover, a generator 17 and gearbox 16 are disclosed. Also, Wurtz discloses a line 37 being affixed to a corner of each vane that is use for moving the vanes (see figures 1, 2).

However, Wurtz does not disclose having vanes that may overlap.

On the other hand, White discloses for the purpose of providing a generating device that is able to withstand strong air currents, vanes 130 which have overlapping sections 172 (see figure 23). Moreover, the pivot axis of the vanes is parallel to the vertical support (see figure 23).

However, neither Wurtz nor White discloses explicitly the use of panels.

On the other hand, Thomas discloses for the purpose of providing a vertical windmill that can work efficiently and minimize operational cost, panels 30 attached at the ends of the struts (see figure 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a wind generator as disclosed by Wurtz and to modify the invention by having overlapping vanes for the purpose of providing a generating device that is able to withstand strong air currents as disclosed by White and to modify the invention by using panels for the purpose of providing a vertical windmill that can work efficiently and minimize operational cost as disclosed by Thomas.

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 21-29 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments filed 06/05/02 have been fully considered but they are not persuasive.

According to the Merriam-Webster's Collegiate Dictionary, a strut is to provide support and a pivot is defined as a pin on which something turns. Thomas discloses panels connected to the ends of supports 28 (radial struts, see column 9,

line 40). The panels 30 disclosed by Thomas pivot about the same circumference about the support 18 (see figure 3). Respectfully, the panels disclosed in figure 2 of the applicant's invention also pivot around the support 12. Respectfully, as disclosed, Thomas discloses the claimed invention.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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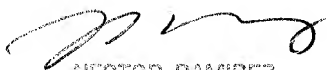
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

August 14, 2002

  
NESTOR RAMIREZ  
SUPERVISORY PATENT EXAMINER  
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